

MIAMI COUNTY
PROPOSED LOCAL RULES
MARCH 15, 2005

PURSUANT TO TRIAL RULE 81 OF THE INDIANA RULES OF PROCEDURE, THE MIAMI COUNTY CIRCUIT AND SUPERIOR COURTS HEREBY PROPOSE THE FOLLOWING RULES TO AID IN THE FAIR AND EFFICIENT RESOLUTION OF DISPUTES. THE COMMENT PERIOD WILL BE OPEN UNTIL MAY 1, 2005 WITH FINAL ADOPTION ON JULY 15, 2005. LOCAL RULES WILL BE SUBMITTED TO THE SUPREME COURT FOR APPROVAL AFTER ADOPTION AND WILL BECOME EFFECTIVE JANUARY 1, 2006.

PROPOSED LR52-CR2.2-1

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit Court and Superior Court hereby establish the following local rules for the assignment of criminal cases, subject to approval of the Indiana Supreme Court.

1. All traffic misdemeanor and infraction cases shall be filed in the Miami Superior Court. In the event that non-traffic misdemeanor charges are filed against a defendant who is also charged with a traffic misdemeanor, the non-traffic charges shall also be filed in the Miami Superior Court.
2. All non-traffic misdemeanor cases shall be filed in the Miami Circuit Court, except as noted in Rule 1, above.
3. All traffic-related felony cases and felony cases involving child abuse and neglect shall be filed in the Miami Superior Court. If non-traffic misdemeanor counts are also filed against the same defendant arising from the same set of facts, they shall also be filed in the Miami Superior Court.
4. ~~All other felony cases shall be filed in the Miami Circuit Court.~~
4. All Class D felony cases with the exception of drug and theft offenses shall be filed in the Miami Superior Court. All other felony cases with the exception of those set forth in Rule 3 above will be filed in the Miami Circuit Court.
5. ~~In those instances in which the Judge of either Miami County Court disqualifies because of a conflict of interest, the case shall be assigned to Senior Judge Garrett W. Palmer. If Judge Palmer is unable to hear the case, the Judge of the other Miami County Court shall be assigned to the case. If neither Miami county judge is able to hear the case, and Judge Palmer has a conflict of interest, then the case shall be assigned under Rule 6., below.~~
6. In the event that a change of judge is granted because of a conflict of interest or pursuant to Criminal Rule 12, the cause shall first be assigned to the judge of the

other Miami County Court. In the event that neither judge can hear a case, Miami Circuit Court cases shall be first assigned to the Honorable Robert McCallen. If Judge McCallen is unable to accept, the case will be assigned to the Honorable Thomas Perrone. Miami Superior Court cases shall be first assigned to the Honorable Thomas Perrone. If Judge Perrone is unable to accept, the case will be assigned to the Honorable Thomas Perrone. ~~following judges, in the order in which they appear below:~~

Honorable Garrett W. Palmer	_____	Honorable Dennis H. Parry
Honorable Daniel J. Vanderpool	_____	Honorable Thomas R. Hunt

Proposed March 15, 2005.

PROPOSED LR52-CR00-1

BOND SCHEDULE

**NON-ALCOHOL RELATED
TRAFFIC MISDEMEANORS:**

\$1,000 corporate security bond, of which ten percent (10%) may be posted in cash.

ALL OTHER MISDEMEANORS:

\$3,000 corporate security bond, of which ten percent (10%) may be posted in cash.

CLASS D FELONIES:

\$3,000 corporate security bond, of which ten percent (10%) may be posted in cash.

CLASS C FELONIES:

\$8,000 corporate security bond.

CLASS B FELONIES

\$20,000 corporate security bond.

CLASS A FELONIES

\$50,000 corporate security bond.

MURDER

NO BOND WILL BE SET,

The above bond schedule notwithstanding, the Judge may set bond in a different amount when it is deemed appropriate.

Persons charged with domestic violence may not be let to bond before being brought before the court. Persons charged with domestic violence shall be brought before the court within 48 hours of arrest, excepting holidays and weekends, in which case they shall be brought before the court in the morning of the first business day following the holiday or weekend.

An additional term of bond for persons charged with battery or domestic violence is that the defendant shall have no contact, directly or indirectly with the alleged victim.

Proposed March 15, 2005.

PROPOSED LR52-TR79(h)-1

Purpose of Rule

This rule is adopted to comply with the requirements of Trial Rule 79(h) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5, and includes each ~~person~~ court eligible for appointment under Section (j) of Trial Rule 79.

Central Office Established

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Wabash Circuit Court.

~~This Court~~ The Miami Circuit and Superior Courts shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. ~~This Court~~ The Miami Circuit and Superior Courts shall accept from the Central Administrator the name of the individuals to then be appointed as special judge.

The person serving as Administrator of the Central Office shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (j) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring ~~C~~court of the individual to be appointed under this ~~R~~rule.

Current Rotation Schedule

The following shall be the rotation schedule ~~initially~~ used by the Central Administrator:

1. The Judge of the Cass Superior Court No. 1; ~~currently the Honorable Douglas Cox.~~
2. The Judge of the Wabash Circuit Court; ~~currently the Honorable Daniel J. Vanderpool.~~
3. The Judge of the Howard Superior Court No. 3; ~~currently the Honorable Randy Hainlen.~~
4. The Judge of the Fulton Superior Court; ~~currently the Honorable Rosemary Higgins Burke.~~

5. The Judge of the Howard Superior Court No. 2.; ~~currently the Honorable Stephen Jessup.~~
6. The Judge of the Fulton Circuit Court.; ~~currently the Honorable Douglas Morton.~~
7. The Judge of the Howard Circuit Court.; ~~currently the Honorable Lynn Murray.~~
8. The Judge of the Tipton Circuit Court.; ~~currently the Honorable Dane Nash.~~
9. The Judge of the Miami Superior Court.; ~~currently the Honorable Garrett W. Palmer.~~
10. The Judge of the Howard Superior Court No. 1.; ~~currently the Honorable Dennis Parry.~~
11. The Judge of the Cass Circuit Court.; ~~currently the Honorable Julian Ridlen.~~
12. The Judge of the Wabash Superior Court.; ~~currently the Honorable Michael Sposeep.~~
13. The Judge of the Miami Circuit Court.; ~~currently the Honorable Bruce C. Embrey.~~
14. The Judge of the Cass Superior Court No. 2.

Administration Fee

Each of the Courts participating under this Rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th of September of each year.

Certification to Supreme Court

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the Court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

Proposed March 15, 2005.

PROPOSED LR52-AR00-1

CASELOAD DISTRIBUTION

The Miami Circuit and Superior Courts have previously adopted various rules and orders concerning the filing of certain types of matters in the County Courts. Those rules and standing orders remain in effect. Concurrently with the adoption of these local rules, LR52-CR2.2-1 has been amended to incorporate the allocation of filing of Class D felony cases.

Proposed March 15, 2005.

PROPOSED LR52-AR00-2

REVIEW OF CASELOAD DISTRIBUTION

The judges of the courts of record of Miami County shall meet en banc in February of each year for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required to comply with new orders of the Indiana Supreme Court and to comply with the District Plan or any amendments to the District Plan.

Proposed March 15, 2005.

PROPOSED LR52-AR15-1

~~The undersigned courts comprise all of the courts of record of Miami County, Indiana and hereby adopt the following local rule by which court reporter services shall be governed.~~

COURT REPORTER SERVICES

Section One. Definitions. The following definitions shall apply under this local rule:

4. *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
5. *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
6. *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the court room and any designated office space.

7. *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
8. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
9. *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
10. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
11. *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
12. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
13. *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Miami County.
14. *County indigent transcript* means a transcript that is paid for from county funds and is for the benefit of a litigant who has been declared indigent by a court.
15. *State indigent transcript* means a transcript that is paid for from state funds and is for the benefit of a litigant who has been declared indigent by a court.
16. *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries, ~~Gap time and Overtime Pay.~~ Compensation, Equipment and Transcript Fees.

1. Court Reporters shall be paid an annual salary for the time spent working under the control, direction and direct supervision of their supervising court during any regular fixed work hours, gap hours or overtime hours. ~~Subject to the approval of the county council, the amount of the annual salary shall be set by the court.~~
2. The court reporter shall, if requested or ordered, prepare any transcript during regular work hours.
3. In the event that preparing a transcript cannot be completed during regular fixed work hours, the court reporter shall be entitled to additional compensation beyond regular salary under one of the two options set forth as follows:

~~(a)(1) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary; and~~

~~—(2) Overtime hours shall be paid in the amount of one and one-half (1½) times the hourly rate of the annual salary; or~~

~~(b)(1) Compensatory time off from regular fixed work hours shall be given in the amount equal to the number of gap hours worked; and~~

~~—(2) Compensatory time off from regular fixed work hours shall be given in the amount of one and one-half (1½) times the number of overtime hours worked.~~

(3) The court and the court reporter shall freely negotiate between the two which of the options set forth in (3) above shall be applicable and the court and the court reporter shall entered into a written agreement which outlines the option utilized for the compensation of gap and overtime hours.

(4)

2. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

~~Section Three. Private Practice.~~

3. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

1. The reasonable market rate of the use of equipment, work space and supplies.

2. The method by which records are to be kept of the use of equipment, work space and supplies; and

3. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

4. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

~~Section Four. Fees~~

5. The maximum per page fee a court reporter may charge for private practice work shall be Three Dollars and Fifty Cents (\$3.50).

6. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Three Dollars and Fifty Cents (\$3.50).
7. The maximum per page fee a court reporter may charge for the preparation of a transcript for a county or state Indigent transcript shall be Two Dollars and Fifty Cents (\$2.50).
8. Any transcript that is required to be expedited will result in an additional fee of Fifty Cents (\$.50) per page.
9. The court reporter shall submit directly to the county a claim for the preparation of the county or state indigent transcript.
10. The court reporter may charge an assembly fee for a transcript as follows: \$35.00 for a normal transcript or \$50.00 for a large transcript. This fee is being made because of additional duties required of court reporters as a result of the revised rules regarding preparation of transcripts, which requires considerably more work than previous rules.
11. The courts will enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. either monetary compensation or compensatory time off.
- (12) The new schedule for fees is to commence July 1, 2002.

Proposed March 15, 2005.

PROPOSED LR52-FL00-1

WORKSHEET - CHILD SUPPORT OBLIGATION.

A copy of the worksheet provided in the Indiana Child Support Guidelines shall be submitted to the court in each case in which the court is asked to determine support, including cases in which agreed orders are submitted. The worksheets are to signed by both parties under penalties of perjury.

PROPOSED LR52-FL00-2

SCHEDULE OF ASSETS AND LIABILITIES.

A schedule of assets and liabilities together with copies of any and all inventories and appraisals, shall be submitted to the court prior to the beginning of a contested trial and copies served upon opposing counsel.

PROPOSED LR52-FL00-3

INCOME AND PROPERTY DISCLOSURE.

1. In order to avoid the need for the service and answering of interrogatories and/or requests for production in a dissolution of marriage action and/or other domestic relation action for the division of property, and in order to insure complete, uniform and reciprocal disclosure of income, property, and assets, each party to an action for divorce or separation, shall cause to be filed with the court in which the action is pending, an Income and Property Disclosure Form which shall be from time to time designated and approved by the Miami County Courts. The Initiating Party shall file the disclosure form within 30 days of the date the action is filed and shall serve same upon the opposing party contemporaneous with filing. The opposing party shall have 30 days from the date of service of the initiating parties service of the disclosure form to file his or her disclosure form.
2. No discovery request may be served upon the opposing party unless and until such party seeking discovery has filed with te court his or her disclosure form. The filing ans service of a prescribed disclosure form shall be deemed to comply with any and all discovery requests issued by a party where the discovery sought is contained in and/or may reasonably discerned from such disclosure form.
3. The Clerk shall cause to be issued a copy of the prescribed disclosure form to the adverse party contemporaneous with the summons of initial notice of hearing in all dissolution of marriage or legal separations.
4. No final hearing may be scheduled and no decree of dissolution or legal separation shall be entered unless and until the prescribed disclosure form is filed with the court, except in those cases in which the court has specifically waived the requirement.

Proposed March 15, 2005.